

**SENATE JOURNAL
59TH LEGISLATURE
SEVENTY-THIRD LEGISLATIVE DAY**

Helena, Montana
April 6, 2005

Senate Chambers
State Capitol

Senate convened at 12:30 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Balyeat, Gebhardt, Grimes, O'Neil, Shockley.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senate recessed 12:33 p.m.
Senate reconvened 12:54 p.m.

Roll Call. All members present. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Balyeat, O'Neil.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL:

4/6/2005

Correctly printed: **HB 7, HB 8, HB 9, HB 22, HB 89, HB 146, HB 326, HB 440, HB 474, HB 522, HB 536, HB 628,**

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 6, 2005

HB 643, HB 687, HB 772.

Correctly engrossed: **HB 186, HB 235, HB 541, HB 790.**

Correctly enrolled: **SB 76, SB 95, SB 212, SB 214, SB 225, SB 244, SB 335, SB 349, SB 350, SB 355, SB 365, SB 368, SB 370, SB 410, SB 457, SB 470, SB 497.**

Examined by the sponsor and found to be correct: **SB 39, SB 77, SB 126, SB 206, SB 286, SB 329, SB 347, SB 401, SB 451, SB 479, SJR 19, SJR 21, SJR 23.**

Signed by the Speaker at 10:00 a.m., April 6, 2005: **SB 39, SB 77, SB 126, SB 206, SB 286, SB 329, SB 347, SB 401, SB 451, SB 479, SJR 19, SJR 21, SJR 23.**

Signed by the President at 4:15 p.m., April 6, 2005: **SB 39, SB 77, SB 126, SB 206, SB 286, SB 329, SB 347, SB 401, SB 451, SB 479, SJR 19, SJR 21, SJR 23.**

Signed by the Secretary of the Senate at 8:10 p.m., April 6, 2005: **SB 39, SB 77, SB 126, SB 206, SB 286, SB 329, SB 347, SB 401, SB 451, SB 479, SJR 19, SJR 21, SJR 23.**

Delivered to the Governor for approval at 3:30 p.m., April 6, 2005: **SB 39, SB 77, SB 126, SB 206, SB 286, SB 329, SB 347, SB 401, SB 451, SB 479, SJR 19, SJR 21, SJR 23.**

FISH AND GAME (Tropila, Chairman):
HB 235, be amended as follows:

4/6/2005

1. Title, line 14.

Strike: "PROVIDING AN APPROPRIATION;"

2. Page 6, line 25 through line 29.

Strike: section 6 in its entirety

Renumber: subsequent sections

3. Page 7, line 6.

Strike: "10"

Insert: "9"

And, as amended, be concurred in. Report adopted.

JUDICIARY (Wheat, Chairman):

4/6/2005

HB 22, be concurred in. Report adopted.

HB 643, be concurred in. Report adopted.

TAXATION (Elliott, Chairman):

4/6/2005

HB 89, be concurred in. Report adopted.

HB 186, be amended as follows:

1. Title, line 6.

Following: "VEHICLE"

Insert: "AND "ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE"

2. Title, line 7.

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 6, 2005

Strike: "HIGHWAYS" through "STREETS"

Insert: "WAYS OF THIS STATE OPEN TO THE PUBLIC UNLESS AUTHORIZED BY THE LOCAL GOVERNING BODY; AUTHORIZING THE OPERATION OF ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICES ON CERTAIN SIDEWALKS, ROADS, AND STREETS"

3. Page 1, line 19.

Strike: subsection (a) in its entirety

Renumber: subsequent subsections

4. Page 1, line 23.

Strike: "AND"

5. Page 1, line 24.

Following: line 23

Insert: "(b) has a wheelbase of less than 40 inches and a wheel diameter of less than 10 inches; and"

Renumber: subsequent subsections

6. Page 1, line 27.

Following: "skateboard"

Strike: ", "

Insert: "and"

7. Page 1, line 28.

Following: "rocket"

Strike: ", a" through "lawnmower"

8. Page 1, line 29 through page 1, line 30.

Strike: "A" on page 1, line 29 through "61-1-133, on page 1, line 30

Insert: "an electric personal assistive mobility device, as defined in [section 2],"

9. Page 2, line 3.

Insert: "NEW SECTION. Section 2. Electric personal assistive mobility device. "Electric personal assistive mobility device" means a device that has two nontandem wheels, is self-balancing, and is designed to transport only one person with an electric propulsion system that limits the maximum speed of the device to 12 1/2 miles an hour."

Renumber: subsequent sections

10. Page 2, line 5 through page 2, line 7.

Strike: ":" on line 5 through "town" on line 7

Insert: "ways of this state open to the public"

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 6, 2005

11. Page 2, line 8.

Following: "town"

Insert: "for a public way under its jurisdiction"

12. Page 2, line 9.

Insert: "NEW SECTION. **Section 4. Authorized operation of electric personal assistive mobility devices.** Electric personal assistive mobility devices, as defined in [section 2], are permitted to operate on sidewalks, unless they are prohibited by official traffic control devices, on bike paths, and on roads and streets that have a speed limit of 35 miles an hour or less."

Renumber: subsequent sections

13. Page 2, line 14.

Following: "61-1-123,"

Insert: "an electric personal assistive mobility device, as defined in [section 2],"

14. Page 2, line 29.

Following: "61-1-123,"

Insert: "an electric personal assistive mobility device, as defined in [section 2],"

15. Page 7, line 11.

Strike: "Section"

Insert: "Sections"

Following: "1"

Insert: "and 2"

Strike: "is"

Insert: "are"

16. Page 7, line 12.

Strike: "section"

Insert: "sections"

Following: "1"

Insert: "and 2"

17. Page 7, line 13.

Strike: "Section 2"

Insert: "Sections 3 and 4"

Strike: "is"

Insert: "are"

18. Page 7, line 14.

Strike: "section 2"

Insert: "sections 3 and 4"

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 6, 2005

19. Page 7, line 15.

Insert: "COORDINATION SECTION. Section 11. Coordination instruction. If Senate Bill No. 285 and [this act] are both passed and approved, then [section 1 of this act] is void, internal references to [section 1] in [this act] are changed to 61-1-101, and the following definition is inserted into 61-1-101 as amended by Senate Bill No. 285:

"(28) (a) "Motorized nonstandard vehicle" means a vehicle, upon or by which a person may be transported, that:

(i) is propelled by its own power, using an internal combustion engine or an electric motor;
(ii) has a wheelbase of less than 40 inches and a wheel diameter of less than 10 inches; and
(iii) does not display a manufacturer's certification in accordance with 49 CFR, part 567, or have a 17-character vehicle identification number assigned by the manufacturer in accordance with 49 CFR, part 565.

(b) The term includes but is not limited to a motorized skateboard and a vehicle commonly known as a "pocket rocket".

(c) The term does not include an electric personal assistive mobility device or a motorized wheelchair or other low-powered, mechanically propelled vehicle designed specifically for use by a physically disabled person.""

Insert: "COORDINATION SECTION. Section 12. Coordination instruction. If Senate Bill No. 285 and [this act] are both passed and approved, then [section 2 of this act] is void, internal references to [section 2] in [this act] are changed to 61-1-101, and the following definition is inserted into 61-1-101 as amended by Senate Bill No. 285:

"(13) "Electric personal assistive mobility device" means a device that has two nontandem wheels, is self-balancing, and is designed to transport only one person with an electric propulsion system that limits the maximum speed of the device to 12 1/2 miles an hour."

Insert: "COORDINATION SECTION. Section 13. Coordination instruction. If Senate Bill No. 285 and [this act] are both passed and approved, then subsection (b) of the definition of "motorcycle" in 61-1-101 as amended by Senate Bill No. 285 reads:

"(b) The term does not include a tractor, a bicycle as defined in 61-8-102, a motorized nonstandard vehicle, or a two- or three-wheeled all-terrain vehicle that is used exclusively on private property.""

Insert: "COORDINATION SECTION. Section 14. Coordination instruction. If Senate Bill No. 285 and [this act] are both passed and approved, then subsection (b) of the definition of "motor-driven cycle" in 61-1-101 as amended by Senate Bill No. 285 reads:

"(b) The term does not include a bicycle as defined in 61-8-102 or a motorized nonstandard vehicle.""

Renumber: subsequent sections

And, as amended, be concurred in. Report adopted.

HB 541, be amended as follows:

1. Page 11, line 3.

Strike: "under 61-3-522(3)"

2. Page 15, line 18.

Insert: "COORDINATION SECTION. Section 8. Coordination instruction. If Senate Bill No. 285 and [this act] are both passed and approved then [sections 1 through 4, 6, and 7 of this act] are void and the following must be inserted into 61-3-321(7), the fee schedule for motor homes, as amended by Senate Bill No. 285:

"(c) (i) The owner of a motor home 11 years old or older subject to the registration fee under subsection (7)(a) may permanently register the motor home upon payment of:

(A) a fee of \$237.50; and

(B) if applicable, five times the personalized license plate fees under 61-3-406.

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 6, 2005

(ii) The following series of license plates may not be used for purposes of permanent registration of a motor home:

- (A) Montana national guard license plates issued under 61-3-458(2)(b);
- (B) reserve armed forces license plates issued under 61-3-458(2)(c);
- (C) license plates bearing a wheelchair design as a symbol of a person with a disability issued under 61-3-332(11);
- (D) amateur radio operator license plates issued under 61-3-422;
- (E) collegiate license plates issued under 61-3-465; and
- (F) generic specialty license plates issued under 61-3-479.

(iii) Except as provided in subsection (17), whenever a transfer of ownership of a permanently registered motor home occurs, the applicable fees required under this subsection (7) must be paid by the new owner.""

Renumber: subsequent section

And, as amended, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate:

4/6/2005

SB 1, introduced by Schmidt
SB 33, introduced by Cobb
SB 46, introduced by O'Neil
SB 62, introduced by Perry
SB 86, introduced by Smith
SB 124, introduced by Roush
SB 140, introduced by Gebhardt
SB 160, introduced by Wheat
SB 174, introduced by Kitzenberg
SB 182, introduced by Gillan
SB 295, introduced by Gebhardt
SB 299, introduced by Toole
SB 304, introduced by Kitzenberg
SB 311, introduced by Grimes
SB 381, introduced by Moss
SB 384, introduced by Gebhardt
SB 440, introduced by Harrington
SB 459, introduced by Tropila
SB 478, introduced by Gallus
SB 500, introduced by Cobb

Senate joint resolutions concurred in and returned to the Senate:

4/6/2005

SJR 9, introduced by Tester
SJR 13, introduced by Tester
SJR 22, introduced by Pease
SJR 26, introduced by Curtiss
SJR 27, introduced by Harrington

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 6, 2005

Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments:

4/6/2005

SB 88, introduced by Squires
SB 91, introduced by Smith
SB 107, introduced by Smith
SB 116, introduced by Laible
SB 118, introduced by Wheat
SB 119, introduced by Schmidt
SB 122, introduced by Wheat
SB 123, introduced by Black
SB 139, introduced by Esp
SB 154, introduced by Cobb
SB 164, introduced by Gillan
SB 175, introduced by Cromley
SB 191, introduced by Grimes
SB 196, introduced by Wheat
SB 217, introduced by Larson
SB 231, introduced by Laslovich
SB 259, introduced by Lewis
SB 279, introduced by Moss
SB 290, introduced by Mangan
SB 314, introduced by Larson
SB 328, introduced by Squires
SB 342, introduced by Laslovich
SB 396, introduced by Joe Balyeat
SB 435, introduced by Wheat
SB 458, introduced by Gillan
SB 461, introduced by Steinbeisser
SB 481, introduced by Cocchiarella
SB 487, introduced by Pease
SB 503, introduced by Tropila

HB 115 - The House failed to concur in Senate amendments to **HB 115**.

4/6/2005

HB 135 - The House failed to concur in Senate amendments to **HB 135**.

4/6/2005

HB 272 - The House failed to concur in Senate amendments to **HB 272**.

4/6/2005

HB 348 - The House failed to concur in Senate amendments to **HB 348**.

4/6/2005

HB 493 - The House failed to concur in Senate amendments to **HB 493**.

4/6/2005

Senate bill not concurred in and returned to the Senate:

4/6/2005

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 6, 2005

SB 142, introduced by Tash

HB 63 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on **HB 63**:

4/6/2005

Representative Glaser, Chair

Representative Raser

Representative Villa

Representative Wagman

MOTIONS

Senator Laslovich moved action on **HB 99** be reconsidered. Motion carried except Senators Bales and Balyeat.

Senator Laslovich further moved **HB 99** be placed on 2nd reading. Motion carried.

Senator Ellingson moved the appointment of a conference committee on **SB 40**. Motion carried. President Tester appointed Senators Hawks (Chair), Gebhardt, McGee.

Senator Gallus moved action on **HB 421** be reconsidered and further moved the bill be placed on 2nd reading. Motion carried as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams.

Total 29

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Mr. President.

Total 20

Absent or not voting: Kitzenberg.

Total 1

Excused: None.

Total 0

Senator Keenan moved his vote on **HB 474** be changed from "nay" to "aye". Motion carried.

Senator Curtiss moved to change her vote on **HB 684** from "nay" to "aye". Motion carried.

Senator Elliott moved **SB 524** be taken from Senate Taxation and placed in Senate Finance and Claims. Motion carried.

Senator Weinberg moved his vote on **HB 759** be changed from "aye" to "nay". Motion carried.

Senator Cooney moved **HB 740**, **HB 742**, **HB 790**, and **HB 60** be referred to Senate Finance and Claims. Motion carried.

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 6, 2005

Senator Laible moved his vote on **HB 450** be changed from "aye" to "nay". Motion carried.

Senator Kitzenberg moved his vote on **SB 474** be changed from "aye" to "nay". Motion carried.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator McGee in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 740 - Senator Curtiss moved **HB 740** be concurred in. Motion carried unanimously.

HB 742 - Senator Squires moved consideration of **HB 742** be placed below SB 385 on the second reading board. Motion carried.

HB 772 - Senator Lewis moved **HB 772** be concurred in. Motion carried with Senator O'Neil voting nay.

HB 790 - Senator Roush moved **HB 790** be concurred in.

HB 790 - Senator Roush moved **HB 790**, second reading copy, be amended as follows:

1. Page 6, line 10.

Strike: "\$50,000"

Insert: "\$25,000"

2. Page 6, line 20.

Strike: "\$50,000"

Insert: "\$25,000"

Amendment adopted unanimously.

HB 790 - Senator Roush moved **HB 790**, as amended, be concurred in. Motion carried unanimously.

HB 60 - Senator Grimes moved **HB 60** be concurred in.

HB 60 - Senator O'Neil moved **HB 60**, second reading copy, be amended as follows:

1. Page 3, lines 28 and 29.

Strike: "OCCUR" on line 28 through "PROPERTY" on line 29

Insert: "be provided on at least one document, form, or application executed prior to or contemporaneously with an offer for the purchase and sale, rental, or lease of the inhabitable property"

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 6, 2005

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Keenan, Kitzenberg, Laible, Lewis, O'Neil, Pease, Perry, Roush, Shockley, Stapleton, Steinbeisser, Story, Tropila.
Total 23

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, McGee, Moss, Ryan, Schmidt, Smith, Squires, Tash, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 27

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 60 - Senator Grimes moved **HB 60** be concurred in. Motion carried with Senators Esp and O'Neil voting nay.

HB 672 - Senator Story moved **HB 672** be concurred in. Motion **failed** as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Kitzenberg, Laible, Lewis, Mangan, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Weinberg.
Total 24

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Wheat, Williams, Mr. President.
Total 25

Absent or not voting: Keenan.
Total 1

Excused: None.
Total 0

HB 672 - Senator Laslovich moved **HB 672** be **indefinitely postponed**. Motion carried as follows:

Yeas: Cocchiarella, Cooney, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams.
Total 25

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cromley, Curtiss, Esp, Essmann, Gebhardt, Grimes, Kitzenberg, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 23

Absent or not voting: Keenan, Mr. President.
Total 2

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 6, 2005

Excused: None.
Total 0

SB 278 - Conference Committee Report No. 1 - Senator Black moved the Conference Committee report to **SB 278** be adopted. Motion carried as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 40

Nays: Bales, Balyeat, Esp, Hansen, Keenan, Laible, O'Neil, Shockley, Steinbeisser, Story.
Total 10

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 145 - House Amendments - Senator Harrington moved House amendments to **SB 145** be concurred in. Motion carried unanimously.

SB 385 - House Amendments - Senator Esp moved House amendments to **SB 385** be concurred in. Motion carried unanimously.

HB 742 - Senator Squires moved **HB 742** be concurred in. Motion carried as follows:

Yeas: Black, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Gallus, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 33

Nays: Bales, Balyeat, Barkus, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Laible, Lewis, McGee, O'Neil, Steinbeisser, Story, Tash.
Total 16

Absent or not voting: Elliott.
Total 1

Excused: None.
Total 0

Senator Ellingson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman McGee moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 6, 2005

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 7 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

Nays: Balyeat.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 8 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

Nays: Balyeat.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 127 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 6, 2005

Total 0

Excused: None.

Total 0

SJR 7 adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

Nays: Esp.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 12 adopted as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 47

Nays: Barkus, Esp, Story.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 9 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 47

Nays: Balyeat, McGee, O'Neil.

Total 3

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 6, 2005

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 140 concurred in as follows:

Yeas: Bales, Barkus, Black, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 43

Nays: Balyeat, Brueggeman, Curtiss, Gebhardt, Keenan, McGee, O'Neil.

Total 7

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 146 concurred in as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 44

Nays: Bales, Curtiss, Grimes, McGee, Stapleton, Steinbeisser.

Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 170 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 6, 2005

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 177 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

Nays: Laslovich.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 204 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 326 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 48

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 6, 2005

Nays: Esp, Gebhardt.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 346 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Cromley, Esp.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 395 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Balyeat, Gebhardt, O'Neil, Steinbeisser, Story.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 436 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Keenan, Kitzenberg, Laible, Lewis, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Mr. President.

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 6, 2005

Total 39

Nays: Cobb, Cromley, Ellingson, Hawks, Larson, Laslovich, Lind, Mangan, Weinberg, Wheat, Williams.

Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 440 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 450 concurred in as follows:

Yeas: Cocchiarella, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 34

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cooney, Curtiss, Esp, Laible, Lewis, McGee, Stapleton, Steinbeisser, Story, Tash.

Total 16

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 451 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson,

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 6, 2005

Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

Nays: McGee.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 470 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 44

Nays: Balyeat, Cobb, Curtiss, McGee, Steinbeisser, Tash.

Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 474 concurred in as follows:

Yeas: Brueggeman, Cocchiarella, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Lind, Mangan, O'Neil, Perry, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams.

Total 26

Nays: Bales, Balyeat, Barkus, Black, Cobb, Cooney, Curtiss, Gebhardt, Grimes, Keenan, Laible, Laslovich, Lewis, McGee, Moss, Pease, Roush, Ryan, Shockley, Stapleton, Steinbeisser, Story, Tash, Mr. President.

Total 24

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 522 concurred in as follows:

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 6, 2005

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams.
Total 48

Nays: Balyeat, Mr. President.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 536 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Balyeat.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 587 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 6, 2005

HB 591 concurred in as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 44

Nays: Bales, Cobb, Esp, McGee, Steinbeisser, Story.

Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 624 concurred in as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 35

Nays: Bales, Balyeat, Barkus, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser.

Total 15

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 628 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Pease, Perry, Roush, Ryan, Smith, Squires, Stapleton, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 40

Nays: Balyeat, Cromley, Esp, Gillan, Mangan, O'Neil, Schmidt, Shockley, Steinbeisser, Story.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 6, 2005

Total 0

HB 666 concurred in as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 39

Nays: Bales, Balyeat, Barkus, Esp, Grimes, Keenan, Kitzenberg, Laible, McGee, Stapleton, Steinbeisser.

Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 684 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Mr. President.

Total 47

Nays: McGee, Smith, Williams.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 687 concurred in as follows:

Yeas: Balyeat, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Larson, Laslovich, Lewis, Lind, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 33

Nays: Bales, Barkus, Black, Curtiss, Esp, Essmann, Gebhardt, Keenan, Kitzenberg, Laible, Mangan, McGee, O'Neil, Shockley, Stapleton, Steinbeisser, Story.

Total 17

Absent or not voting: None.

Total 0

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 6, 2005

Excused: None.

Total 0

HB 759 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.

Total 48

Nays: Larson, Weinberg.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Majority Leader Ellingson moved to Senate recess. Motion carried.

Senate recessed 3:12 p.m.

Senate reconvened 7:07 p.m.

Roll Call. All members present. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 45

Nays: Balyeat, Cocchiarella, Gebhardt, O'Neil, Shockley.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

MOTIONS

Senator Cooney moved **HB 374** and **HB 614** be referred to Senate Finance and Claims. Motion carried.

Senator Esp moved his vote on **HB 406** be changed from "aye" to "nay". Motion carried.

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 6, 2005

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator McGee in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 643 - Senator Wheat moved consideration of **HB 643** be placed below HB 173 on the second reading board. Motion carried.

SB 466 - House Amendments - Senator Esp moved House amendments to **SB 466** be concurred in. Motion carried unanimously.

HB 12 - Senator Lind moved **HB 12** be concurred in. Motion carried unanimously.

HB 102 - Senator Tropila moved **HB 102** be concurred in. Motion carried unanimously.

HB 173 - Senator Tash moved **HB 173** be concurred in. Motion carried unanimously.

HB 643 - Senator Wheat moved consideration of **HB 643** be placed below HB 625 on the second reading board. Motion carried.

HB 299 - Senator Cobb moved **HB 299** be concurred in. Motion carried unanimously.

HB 374 - Senator Wheat moved **HB 374** be concurred in. Motion carried with Senators Bales and O'Neil voting nay.

HB 406 - Senator Tester moved **HB 406** be concurred in.

HB 406 - Senator Tester moved **HB 406**, second reading copy, be amended as follows:

1. Title, line 13.

Following: "PROVIDING"

Strike: "A DELAYED"

Strike: "DATE"

Insert: "DATES"

2. Page 3, line 27.

Insert: "NEW SECTION. Section 8. Contingent voidness. Upon the funding and full implementation of federal mandatory country of origin labeling, adopted as part of the 2002 federal farm bill, [sections 1, 2(1), (3), (5), and (6), 3(2) through (5), 4, and 5 of this act] are void."

Renumber: subsequent section

3. Page 3, line 28.

Strike: "DATE"

Insert: "dates"

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 6, 2005

4. Page 3, line 29.

Strike: "[THIS]"

Insert: "(1) Except as provided in subsection (2), [this"

5. Page 4, line 9.

Insert: "(2) [Section 3(1) and this section] are effective on passage and approval."

Amendment adopted unanimously.

HB 406 - Senator Bales moved **HB 406**, second reading copy, be further amended as follows:

1. Title, line 13.

Following: "PROVIDING"

Strike: "A DELAYED"

Strike: "DATE"

Insert: "DATES"

2. Page 3, line 28.

Strike: "DATE"

Insert: "dates -- contingent voidness"

3. Page 3, line 29.

Strike: "[THIS]"

Insert: "(1) Except as provided in subsection (2), [this"

4. Page 4, line 9.

Insert: "(2)(a) The department of labor and industry shall request an official opinion from the United States department of agriculture, agricultural marketing service, regarding whether the federal country of origin labeling law preempts any portion of [this act].

(b) If the official opinion is that the federal country of origin labeling law preempts any portion of [this act], [this act] is void and the department of labor and industry shall inform the code commissioner. If the official opinion is that the federal country of origin labeling law does not preempt any portion of [this act], [this act] is effective as provided in this section and the department of labor and industry shall notify the code commissioner."

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 22

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gillan, Hansen, Harrington, Hawks, Larson,

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 6, 2005

Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 28

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 406 - Senator Tester moved **HB 406**, as amended, be concurred in. Motion carried as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Story, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 39

Nays: Bales, Balyeat, Curtiss, Esp, Keenan, McGee, O'Neil, Shockley, Stapleton, Steinbeisser, Tash.

Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 513 - Senator Elliott moved **HB 513** be concurred in. Motion carried unanimously.

HB 528 - Senator Perry moved **HB 528** be concurred in. Motion carried with Senators Gallus and Larson voting nay.

HB 540 - Senator Tester moved consideration of **HB 540** be placed below HB 643 on the second reading board. Motion carried.

HB 614 - Senator Wheat moved **HB 614** be concurred in. Motion carried with Senators Bales, Balyeat, Esp, O'Neil, and Story voting nay.

HB 625 - Senator Toole moved **HB 625** be concurred in. Motion carried unanimously.

HB 643 - Senator Wheat moved **HB 643** be concurred in.

HB 643 - Senator O'Neil moved **HB 643**, second reading copy, be amended as follows:

1. Title, page 1, line 4.

Following: "AND IN"

Strike: "ALL"

Insert: "CERTAIN"

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 6, 2005

2. Page 5, line 8.

Following: "in"

Insert: "certain"

Following: "places and"

Insert: "in certain"

3. Page 5, line 10.

Following: "¿"

Strike: "and"

4. Page 5, line 11.

Following: "air"

Insert: "generally"

Following: "to smoke"

Insert: "; and

(4) to recognize the property rights of the owner of private property"

5. Page 5, line 21.

Following: "that"

Insert: "is owned by the state or a political subdivision of the state and that"

6. Page 5, line 25.

Following: "public"

Strike: "and private"

Following: "including"

Strike: "all office"

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Esp, Essmann, Gebhardt, Hansen, Keenan, Kitzenberg, Laible, McGee, O'Neil, Shockley, Smith, Stapleton, Story.

Total 21

Nays: Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Grimes, Harrington, Hawks, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Squires, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 29

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 643 - Senator Wheat moved **HB 643** be concurred in. Motion carried as follows:

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 6, 2005

Yeas: Bales, Barkus, Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 40

Nays: Balyeat, Black, Cobb, Curtiss, Gebhardt, Hansen, Lewis, O'Neil, Shockley, Story.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 540 - Senator Tester moved **HB 540** be concurred in.

HB 540 - Senator Kitzenberg moved **HB 540**, second reading copy, be amended as follows:

1. Page 1.

Following: line 27

Insert: "DEPARTMENT OF COMMERCE"

Insert: "Great Plains Dinosaur Park \$500,000"

2. Page 2, line 20.

Strike: "\$67.5"

Insert: "\$68"

Amendment adopted as follows:

Yeas: Bales, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Elliott, Essmann, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Shockley, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams.

Total 36

Nays: Balyeat, Barkus, Cooney, Ellingson, Esp, Gallus, Gebhardt, Gillan, Grimes, McGee, O'Neil, Schmidt, Steinbeisser, Mr. President.

Total 14

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 540 - Senator Tester moved **HB 540**, as amended, be concurred in. Motion carried with Senators Balyeat, Esp,

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 6, 2005

and O'Neil voting nay.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman McGee moved the Committee of the Whole report be adopted. Report adopted unanimously.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 8:00 a.m., Thursday, April 7, 2005. Motion carried.

Senate adjourned at 10:04 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate